

In the Matter of)
) CC Docket No. 98-170
Truth-in-Billing and Billing Format)

U S WEST Communications, Inc. (“U S WEST”) supports those parties urging that the Federal Communications Commission (“FCC” or “Commission”) grant carriers relief with respect to certain aspects of the Commission’s Truth-in-Billing rules.¹ Every commenting party supported such relief in one fashion or another. Overwhelmingly, the commentators urge the Commission to grant additional time for implementing the rules.

¹ As AT&T Corp. (“AT&T”) has noted, “The various petitions seek similar relief under different names (waiver, stay, forbearance) but they are essentially the same in substance.” AT&T at 1 n.2.

² The former rule deals with the highlighting of service providers; the latter addresses marking charges as “deniable” or “nondeniable”.

additional compliance time due to the extensive nature of systems changes suggested by the rules, as well as the Y2K situation and the impending carrier moratoria.³ “[A]t a minimum, carriers need additional time to modify their complex billing systems to accommodate additional requirements imposed by the Commission’s new rules[.]”⁴

The integrated nature of the relief being requested (e.g., variously a stay, waiver, extension of time) with the substantive aspects of the reconsideration process makes granting the petitions a prudent act of regulatory discretion.⁵ A perusal of the filed comments, for example, demonstrates that certain of the arguments are actually more properly pressed in the substantive reconsideration

³ It is difficult, given the nomenclature associated with the various filings, to get a good sense of whether the commenting parties primarily support a stay of the rules indefinitely (generally pending reconsideration) or a lengthy extension of time. Generally, the petitions for relief asked for both and the commenting parties support both.

⁴ AT&T at 2. “[C]arriers’ billers are typically enormous systems, and any changes to those systems requires significant lead time and resources to implement.”; Excel Telecommunications, Inc. (“Excel”) at 3, 5, 8; MediaOne Group, Inc. (“MediaOne”) at 3; Time Warner Telecom (“TWTC”) at 4 (“If the largest, most fiscally sound, and experienced [ILECs] cannot comply in the short-term . . . recent market entrants are equally unable to comply.”). And compare Frontier Corporation (“Frontier”) at 2 (“It is arbitrary and capricious for the Commission to order carriers to implement major billing system changes without any record support that they are capable of doing so.”), 4 (as a matter of policy, the Commission “should not issue regulatory decrees that are impossible to comply with”).

⁵ A review of both the filed petitions, as well as the comments filed in support/opposition indicates that factors that would normally be considered as material issues for reconsideration pepper the filings as supporting factors for granting the requested relief. U S WEST will comment on these substantive items when commenting on the reconsideration/clarification petitions themselves.

process.⁶ However, the fact that such arguments are so clearly ingratiated into the logic and analysis associated with the various requests for relief add credence to the propriety of holding any effective date in abeyance pending resolution of the matters.

For example, in the reconsideration process, some filing parties ask the Commission to totally reverse its position with respect to its “new service provider” and “deniable/nondeniable” mandates, while other parties seek more limited relief *vis-à-vis* the substance of the Commission’s rules, e.g., that the term “service provider” be redefined to permit for an easier application of the Commission’s rules.⁷ In either event, were the Commission to grant the substantive relief being

⁶ There is apparently some contention around whose responsibility it is to determine when a service is “deniable” or “non-deniable.” Despite the Commission’s clear relegation of this responsibility to the carrier whose charges are under consideration (see MCI WorldCom, Inc. (“MCI”) at 8 n.16, citing to the Commission’s Truth-in-Billing Order), AT&T seeks to avoid this responsibility, claiming that “the LECs must bear the ultimate responsibility for implementing the rule.” AT&T at 5, n.9. MCI makes a similar argument regarding the identification of a “new” service provider (MCI at 13) while at the same time arguing for greater control over the content/text of the bill itself (id. at 10 n.23.) AT&T and MCI are incorrect.

In any event, a local exchange carrier (“LEC”) billing for an interexchange carrier (“IXC”) could require the IXC to identify those charges that are deniable and to indemnify the LEC with respect to such designation -- in essence shifting, for all practical purposes, the “responsibility” for compliance from the LEC to the IXC. A failure to agree on terms associated with this matter could well cause pressure on the cost/benefit analysis that a LEC must undertake when deciding whether to bill for others. See National Telephone Cooperative Association (“NTCA”) at 3. And see Telecommunications Resellers Association (“TRA”) at 7 (expressing concern that the “costs and burdens imposed on [ILECs] not be of such a magnitude that they prompt termination of billing services . . . or occasion dramatic increases in the rates and charges.”).

⁷ See Cincinnati Bell Telephone Company (“CBT”) at 4 (commenting on the United States Telephone Association (“USTA”) and Ameritech proposals that the definition

requested, concomitant changes to the billing systems would be mitigated. Of course, this cannot be known until the reconsideration process is concluded and a final decision is made on the definition.

Furthermore, as pointed out by MCI (supporting Sprint's arguments), even if the Commission determined that it should proceed with its mandates, industry efficiency and cost mitigation require that a national effort be made (through an organization such as the Ordering and Billing Forum ("OBF")) to create the standards, fields, and other data feeds/formats necessary to accomplish compliance with what are essentially federal, national mandates.⁸ This work itself would require time, post any renewed Commission mandate.

Moreover, the Commission cannot shy away from the fact that its current rules are particularly vulnerable to reversal by a court if not changed on reconsideration by the Commission. As Frontier points out, it is unlikely that the Commission's rules, as currently articulated, would successfully withstand a judicial challenge.⁹ This is particularly true with respect to the Commission's mandates directed toward the billing of intrastate services.¹⁰

Finally, there is no getting around the fact that the Commission's proposed

of "new service provider" be changed). And see MCI at 3, 12 (arguing that the term should be redefined).

⁸ MCI at 8-9.

⁹ Frontier at 2-3 (arguing that challengers will undoubtedly be successful on the merits, given the state of the current record).

¹⁰ MCI at 5 (noting that even the fundamental authority of the Commission to impose the billing requirements it has mandated is questionable with respect to

rules require substantial and material changes to carrier billing systems at a time when the industry is moving toward a moratoria in connection with Y2K readiness and compliance.¹¹ The Commission's Truth-in-Billing Order and constituent rules simply fail to reflect the appropriate consideration of this factor in the deliberative process.¹²

In conclusion, as well articulated by CBT, the public will not be harmed by a stay or lengthy extension of an effective date of the Commission's Truth-in-Billing rules. Most carriers will continue to itemize charges, identify service providers -- both old and new -- and provide summary information associated with those charges and providers on the front page of the bill.¹³ For these reasons, the Commission should grant the requested relief and resolve challenges to its rules on

intrastate services), 9 (arguing that the Commission's rules regarding the marking of charges as "deniable" or "nondeniable" is not likely to withstand judicial review).

¹¹ See, e.g., Office of Advocacy, U.S. Small Business Administration ("Advocacy") at 3 (claiming that Y2K preparation efforts involve different and unique issues for small carriers); AT&T at 2-3; CBT at 2-3 ("the moratorium will allow CBT to enter the year 2000 with a stable systems environment that has undergone final Y2K testing."); Excel at 7-8; Frontier at 3; NTCA at 3, 7; Teligent Comments at 3, Teligent Petition for Limited Waiver at 8.

¹² Compare CPNI Reconsideration Order ¶ 119 ("We have considered the potential impact of our rules . . . on carriers' year 2000 (Y2K) remedial efforts and their plans to stabilize their networks over the Y2K conversion. . . . [W]e believe that our rules will have no significant detrimental effect on carriers' Y2K efforts." The Commission established an extended effective date "so as not to impede those efforts.") In the Matter of Implementation of the Telecommunications Act of 1996, Telecommunications Carriers' Use of Customer Proprietary Network Information and Other Customer Information; Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, As Amended, CC Docket Nos. 96-115 and 96-149, Order on Reconsideration and Petitions for Forbearance, FCC 99-223, rel. Sep. 3, 1999.

reconsideration before demanding compliance with those portions of its rules that would require elaborate changes to carriers' billing systems sometimes based on the most questionable of regulatory authority.

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¹³ CBT at 5. And see Frontier at 3 (“most of the information that the Commission believes is essential already appears on monthly telephone bills.”).

CERTIFICATE OF SERVICE

I, Richard Grozier, do hereby certify that I have caused 1) the foregoing **REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC. ON FILED PETITIONS FOR RELIEF** to be filed electronically with the FCC by using its Electronic Comment Filing System, 2) a courtesy copy of the **REPLY COMMENTS** to be served, via hand delivery, upon the persons (marked with an asterisk) listed on the attached service list, and 3) a copy of the **REPLY COMMENTS** to be served, via first class United States mail, postage prepaid, upon all other persons listed on the attached service list.

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